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A
True Narrative
OF THE
PROCEEDINGS
BEFORE THE
Honourable Trustees
IN
IRELAND,

On the Claims of JOHN WADE Esq; and
Mr. Francis Nangle, for 248 Acres in Har-
bert's Town; Nangle Claiming a long Lease,
which he took of the Agents of the late Duke
of York; and Wade Claiming it as his Free-
hold, with several Affidavits, Notes and Or-
ders Sign'd by Mr. Trenchard, Secretary, and
Mr. Amory, Register; To which the said
Wade's Petition Refers: In

A Familiar Dialogue

Between
A. and B.

Humbly offer'd to the Honourable House of
COMMONS.

LONDON, Print'd in the Year 1702.

THE
PROCEEDINGS

Honorable Members

IRF AND

in the

A True Narrative
OF THE
PROCEEDINGS

Before the
Honourable Trustees

IN
IRELAND,

*On the Claims of John Wade
Esq; and Mr. Francis
Nangle, &c.*

A. I Pray, What Title has *Wade* to *Harberts-Town*?

B. *Wade's* Father had all *Harberts-Town* Convey'd by Fine and Recovery, &c. from the old Proprietor in 1663, and under that Title, *Wade* enjoy'd it till 1684, *Vide* Pag. 15 at which time Mr. *Nangle* gets a Lease of the 248 Acres conditionally, from the Agents of the late Duke of York, that he could Recover them. *Vid.* Pet.

Was *Nangle* Possess'd of the 248 Acres at the

Surrender of *Lymerrick*, by himself, or any in Trust for him?

B. No; nor at any time since until now.

A. Is he not barr'd by the Act Confirming the Articles of *Lymerrick*?

B. I think so.

Note that
Wade had
not the De-
positions of
Richard
Plunkett in
ss at his
Tryal; n^t
having dis-
covered them
until March
1700.

A. Pray, how came Mr. *Nangle* to put in his Claim for the 248 Acres in *Harberts-Town*, when he knew *Wade* had an undoubted Right to it, (and Recover'd from Madam *Villiams* and Mr. *Nangle*, when they had the Top Council of the Kingdom, as Mr. *Doyle*, now Lord Chief Baron, the present Attorney-General, and Solicitor-General, Sir *John Meade*, and Sir *Richard Levings*, and by a particular Interest and Favour had it Try'd at Bar; when for the Value it ought to be Try'd at the Assizes) for *Nangle* could not think his Lease would be Adjudged Good when barr'd by Act of Parliament.

B. *Nangle* thought by his Claiming, to get a Spill from *Wade* as he had done from others; and in order thereto, sent several times to Compound, and give *Nangle* some Money, but *Wade* depending on the Justness of his Cause, would not hear any thing of it.

A. Why was not *Wade's* Claim Heard with *Nangle's* when it was Posted to be Heard on the 13th of January, 1701, (according to the Printed Directions of the Trust) especially, when *Wade* mov'd the Court, at what great Expences he was at in Attending with his Witnesses, Officers with the Original Records, and his Council every Day, and desired it might be Heard.

B. *Wade's* Claim, by some mistake, or designedly, was not Posted, and so could not be Heard, as pretended.

A. But *Nangle's* was Posted, and *Wade* was Oblig'd to Attend with his Witnesses, &c. as if his own Claim was to be Heard; to Oppose *Nangle*.

A. It

B. It is true, and had *Wade* applied the right way, it had then been heard: For neither *Mr. Amory*, *Mr. White*, or *Mr. Nangle* expected to carry the Cause, but were well satisfied to have any Pretence to put it off.

A. Well, but *Wade's* Claim was posted to be heard the third of *February* 1701, I hope it was not then put off!

B. Truly it was posted as you say, but I believe not with an Intention to be heard, for it was put off from time to time above three weeks before heard.

A. why did not *Wade* send home his Witnesses, or move the Court to have his Claim heard.

B. *Wade* could not send his Witnesses home, for most of them were very old, and lived betwixt 30 and 40 Miles from *Dublin*, (and if they were sent out of Town) a thousand to one *Wade's* Claim would be by *Nangle's* Interest, called on and heard; but *Wade* moved several times to have his Claim come on, letting the Court know what great Expences he was at, in attending with Ten Witnesses, &c. But could not get it heard until the 25th. of *February*; for when the Court was inclinable to hear it, *Mr. Nangle*, *Mr. White*, or *Amory*, made some Pretences to put it off.

A. Was *Mr. White's* or *Mr. Amory's* Allegation sufficient to put off a Tryal without Affidavit, or paying Cost?

B. Yes, if five or six Counsel opposed them.

A. Pray tell me what Advantage this was to *Mr. Amory*, or to *Mr. White*, to keep *Wade's* Claim from being heard?

B. I cannot tell, except that one is Register, the other Agent, both particular Friends to *Nangle*, and did not question but that this Delay being so expensive to *Wade*, it would force him to compound with their Friend *Nangle*; or, at least some other way, as is most usual, for Expedition would be used.

A. On the 25th. of *February*, 1701. *Wade's*

(4)
Claim was heard, and a *Curia Advisaria* made therein.

Wade obliged to give in the Names of his Witnesses, Nangle not.
B. Yes, but Mr. *Nangle* the next Morning moved for a longer time to examine Witnesses, and the Court gave leave to both sides to examine that day Fortnight, only with this difference, that *Wade* should give in the Names of his Witnesses, but *Nangle* not.

A. I suppose on the 13th. of *March* it was then determined.

The first day M. *Nangle* pretended *Richard Plunkett* was Proprietor; the second, *Alexander* was, and sold to *Edward* Son to *Richard*, who surely would not purchase from *Alexander*, if his Father *Richard* had any Right, and afterwards it was *Richard's* and not *Alexander's*, and would not stick to any tale.
B. No, for *Nangle* said he was not ready, and it was put off until the next day; at which time *Nangle* and the Trustees Counsel allowed that *Harbert's-Town* was the Propriety of *Alexander Plunkett*, under whom *Wade* derived; and he sold to one *Edward Plunkett*, Son to the same *Richard*, who they pretended was Proprietor the first day; the which *Edward* was a forfeiting Person, so the Estate vested in the Trust, and to prove it, produced the said *Edward*.

A. Sure this *Edward Plunkett* was not admitted an Evidence?

B. Yes he was, for Mr. *White* Agent to the Trust had the Records of Outlawry against *Plunkett* in his Hands, but would not produce them, though *Wade* desired and offered to prove he was Tenant to the Lands, which by the said *Plunkett's* Forfeiture was in the Trust.

A. If he was not Outlawed, he then swore for himself, as being the pretended Proprietor, and so no good Evidence.

B. All this was objected, but the Court order'd *Plunkett* to be sworn.

A. Did he swear any thing Material against *Wade*?

B. I cannot say he did, but he swore to things that were done long before he was born, and told a long Story, such as Mr. *Amory* would not take in Writing (for if he had) he knew it would have ruin'd Mr. *Nangle's* Cause, he contradicted himself so often.

A.

A. What did Mr. *Amory* as to the taking the Notes of what *Edward Plunkett* swore in Court?

B. He left a Blank in his Note-Book, and ordered Mr. *Richard*, who takes Notes in Court as well as Mr. *Amory*, to leave a Blank in his Book, but withal ordered *Edward Plunkett* to draw up his own Evidence after Court, and it should be entred as taken in Court.

A Blank in Mr. Amory's Note-Book.

A. Surely Mr. *Amory* would not do so base an Act, or, at least, not to be so imprudent as to let his Note-Books be seen until fitted up; for, he must know it would very much reflect on him, to be so very partial if discovered.

Wade see the Note-Book, and brought two or three Mr. to see it.

B. One would think so, but unfortunately *Wade* saw the Note-Books before either of them were filled, and brought two or three to see the said Books before filled; and got a Copy, but could not get an Attested Copy, untill Mr. *Amory* had filled his Blank, which occasioned Mr. *Amory*, and Mr. *Richard* to tell *Wade* how the Blank came to be left as aforesaid (though at first denied it) until *Wade* protested he see them unfilled, and admired how they should be filled out of Court, and likewise Mr. *Amory* owned the same to *Wade*, before Mr. *Charles Proby* as by Affidavit.

Mr. Amory owns the taking the Notes out of Court before Mr. Chm. Proby.

Edford

Charles Wade of Ould Castle in the County of Meath, Gent. came this day before me and made Oath, that being in Company with *John Wade* of Cloonebreny, Esq; and Mr. *Proby* Parson of Cloonebreny and *Laghcrew*, who pretended to be a great intimate Friend of Mr. *Thomas Amory*, where the said *Wade* was discoursing the said *Proby* of several Hardships that Mr. *Amory* had done the said *Wade*, in taking the Notes in the Cause betwixt the said *Wade* and Mr. *Nargle*

Mr. Proby
owns he
heard Mr.
Amory say
he took Plun-
kett's Notes
out of Court
before the
Deponent.

Mr. Amory
and Mr. Nan-
gle whispering

Wade on the
23d of March
moves to be
Heard.

Nangle for *Harbert's-Town*; and particular-
ly, that *Mr. Amory* did not take the Evi-
dence of one *Edward Plunkett* in Court,
but that after the Court was up, the said
Edward Plunkett brought his Evidence rea-
dy drawn by his Counsel, and so *Mr. A-*
mory entred it, as taken in Court; No,
said *Mr. Proby*, you know, my Dear *Thom.*
told, that *Plunkett's* Evidence being so long,
he could not take it in Court, but ordered
Plunkett to draw it himself after Court, and
bring it him, so *Plunkett* did, but that he
the said *Amory* did not enter all that *Plunkett*
brought as his Evidence, but only that
part of it that he remembred. Now the
said *Wade* further deposeth, That as he sate
on one of the Benches, in the Honourable
the Trustees Court, on *Tuesday* the Twenty
fourth of *March* instant, observing *Mr. Nan-*
gle and *Mr. Amory* earnestly whispering to-
gether nigh this Deponent, and the said *Amory*
say to *Nangle*, that he might go about his
Business; but that he, the said *Nangle*, must be
sure to Attend the Rising of the Court; re-
peating to Attend the Rising of the Court,
twice or thrice then; and the reason why
this Deponent took Notice of the said Words,
was, that the Cause betwixt *Wade* and *Nan-*
gle, was to be heard by Special Order the
day before, being *Monday*; but was not: and
the said *Wade* told this Deponent, he was
sure it was occasioned by *Mr. Amory* in fa-
vour to *Nangle*; and that he, the said *Wade*,
had, and would press by his Counsel to
bring it on, but he was afraid he could not,
until the very last; by reason of *Mr. Amory*
and *Mr. Nangle's* Contrivance, that the Court
might

might be in such a Hurry at Rising, that the Court would not hear his the said *Wade's* Evidences: This Deponent further Depo-
 seth, That he verily believes in his Con-
 science, that it was about the said *Wade's* and
Nangle's Cause, that *Nangle* and Mr. *Amory*
 was whispering as aforesaid, by reason the
 said Cause did not come on until about
 Rising of the Court, being about Eleven at
 Night, as *Wade* said, as aforesaid, to this De-
 ponent; and this Deponent further saith, That
 when the Trust dismissed *Wade's* Claim, as
 to the 284 Acres in *Harbert's-Town*, Mr. *A-*
mory moved the Court, that Coll. *Francis*
Nangle's Claim might be allowed to the
 same.

Mr. Amory
 moves that
Nangle's
 Claim may be
 allowed.

Jurat coram me, April the 8. 1702.

Mic. Shields.

Chas. Edw. Wade.

A. Was *Plunket's* Evidence the same taken out
 out of Court, as he gave in Court?

B. No, quite contrary; For *Edward Plunkett*
 swore in Court, his Grandfather *Oliver Plunkett*,
 settled all his Estate on his Eldest Son *Thomas*,
 except *Ballinagon*, which he gave his second Son
Richard; and *Wade* knowing that both *Ballina-*
gon and *Harbert's-Town* was in the Settlement,
 desired Mr. Recorder *Forster* to remember, that
Plunkett swore as aforesaid, and after Court put
 Mr. *Forster* in mind of it.

Mr. Recorder
 Foster de-
 sired to Re-
 member. &c.

A. I pray you how was it in Mr. *Amory's* Notes
 he took out of Court?

B. It was that his Grandfather *Oliver* gave
 (and not settled) all his Estate.

A. Why did not *Wade* complain to the Trust
 of this foul Practice?

B.

Wade knowing what an Interest *Mr. Amory* had, chose rather to lay aside *Plunkett's* Evidence, by shewing *Plunkett* Perjur'd by Record, and his own Depositions, than to complain of *Mr. Amory*; and in order thereto, offer'd some Records on which the following Notes were taken,

Saturday the 15th of March 1700.

At a Court then Held at Chichester-House.

Present,

Sir Cyril Wych.

Sir Henry Shire.

John Baggs,
James Hooper, } Esqrs.
John Isham.

John Cary,
Hen. Langford, } Esqrs;
Will. Fellows,
Tho. Harrison,
Tho. Rawlins.

John Wade, } Mr. Recorder, I have Bill and
Nov. 1695. } Answers on the Decree in 1665,
to shew the Proceedings then,
That *Richard* in his Answer, Swore there was no
Exchange but that there was only a Lease.

*The Bill Read wherein Edward Plunkett was Plain-
tive, Alexander Plunkett, and Henry Wade,
were Defendants; Filed in the High Court of
Chancery, the 16th of June 1664.*

*The Answer of Alexander Plunkett and Henry
Wade, to Edward's Bill, Filed the 15th of July
1664.*

Mr. Dunkin. He Denies in his Answer, what
was Prov'd on the Hearing, viz. The
Agreement.

Mr. Recorder. By the Depositions of *Edward* in
Chancery, it appears, That his Age
is not the same he Swore himself
Yesterday. Mr.

Mr. Burch. That is not Material, for no Body is oblig'd to set forth his Age, unless it be Necessary and Material in the Cause to prove.

Mr. Wade. I have several other Witnesses to Examin, if any thing sticks with the Court, prays to Examin them.

Curia no Rule.

Amory Register.

Saturday the 15th of March 1700.

The next Day, *Wade* offer'd more Records that plainly Contradicted what *Edward Plunkett* had Swore; upon which, the Court Order'd *Wade* to leave them with their Council to be perus'd, and move it again; which *Wade* accordingly did, and upon the 20th of *March* mov'd it again, to have them Read, and the following Notes were taken.

Thursday the 20th March 1700. At a Court Held at Chichester-House.

Present,

Sir Cyril Wych, Knight

Sir Henry Shires Knt.

Francis Annesly,

John Cary,

John Baggs,

Tho. Harrison,

John Trenchard,

Esqrs,

Will. Fellows.

James Hooper,

Note,
VWade was altogether a Stranger to the pretended Title of Edward Plunkett, set up by Nangle, until VWade searched the Records, there being not the least mention made of it since 84, until Nangle thought to Trump it up now, VWades Father being Dead.

John Wade, Mr. Luthers Prays Depositions 1695. formerly taken in Chancery, on the Hearing between Edward Plunkett and Alexander Plunkett, and John Wade, Defendants, may be Read.

Mr.

Mr) Dunkin. I have Read the Depositions there is nothing in them but what was Confess'd on the former Hearing here.

Cur^{no} Rule.

Upon which, Wade drew the following Petition in Court, and Presented it, and the following Notes were taken:

John Wade Esq; Claimant, 1695.

To the Honourable the Trustees Appointed by an Act of Parliament, for Granting an Aid to His Majesty by Sale of the Forfeited and other Estates and Interests in Ireland, &c.

The Humble Petition of John Wade,

Humbly Sheweth,

Complains
of the great
Mistakes in
the Notes.

THAT Collonel Francis Nangle having perplext this Cause by setting up first one Title, then another, so as your Petitioner cannot tell or learn where to apply any Proof to give your Honours a farther Satisfaction therein, if any thing Sticks with your Honours. And fearing that should proceed from some great Mistake in the Notes,

These Depositions shew
Edw. for sworn, tho' not Read because Mr. Dunkin says there is nothing in them

Your Petitioner humbly Prays that the Depositions, produced this Day to your Honours, may be Read, by which it will plainly appear, That Wade did set up his Deeds of Conveyance from Alexander Plunkett against Edward Plunkett, and that Edward did Attorne Tenant to Wade, pursuant to the said Deeds, before he Prefer'd his Bill; tho' Edward Plunkett Swears to the Contrary: And that your Honours will give Leave and Order the Counsel of both sides, may this Afternoon draw up a State of the Case, and lay the same before your Honours in the Morning before Court. And your Petitioner will Pray, &c.

Item.

Item. His Petition Read, to have Depositions Read, and the Case Stated.

Cur' no Rule:

Amory Register.

A. Did Mr. Amory take all the other Notes fair and impartial?

B. Far from it, for if any Record or Witness made for *Wade*, then only that Record or Witness Nam'd, if but seemingly against *Wade* then mentioned at large; but to give all the Particulars will be too tedious, yet I will instance you one or two. There was one *Ellin Riley*, a poor old Woman *Nangle's* Evidence, who Swore she did not know who was Proprietor of *Harberts-Town* in 41, but as she heard, as appears by Mr. *Richard's* Note-Book, and the said *Ellin Riley's* Examination, viz.

The Examination of Ellin Reily of Mill-Town, in the County of Meath, Widow, Aged Seventy Years, or thereabouts; taken by Sir Humphrey Jervice, Knight, this 27th Day of March, 1702.

WHO being duly Sworn upon the Holy Evangelist, and Examined upon her Oath, saith, That she was Born at *Harberts-Town*, in the said County of *Meath*, and that she was Twelve Years of Age in the Year One thousand six hundred and forty one, and that *Richard Plunkett*, Son to *Oliver Plunkett* of *Cloony-Breny*, five years before the Wars of Forty one, turn'd her Father out of *Harberts-Town*, and sent Stock there; and that one *James Barnewell* lived at *Harberts-Town* aforesaid, when her Father was so turn'd out, as she heard, but knows not what Interest either her Father or the said *Richard* had in *Harberts-Town*; Remembers to have seen the said *Richard*

The Petition on is not in Mr. Amory's Notes, tho' Mr. Amory has the Original, and takes no Notice of the great Mistake (in the Notes) Complained of

Ellin Reily her Examination, which with Mr. Rikard's Notes, shews that she did not Swear that Richard was Proprietor of Harberts-Town, as Mr. Amory Entred in his Note-Book.

Knows not what Interest Rich. had in Harberts-Town, tho' Mr. Amorys Notes is positive.

live

Note, This is live in *Donagoran* in the Wars of Forty one: and further saith not.

Nangler Evi-
dence that
swears Ri-
chard lived in
Donagoran;
though Edw.
swears in
Herberts-
Town.

*Fura Corum me
Humph. Jervis.*

Her
Ellin + Reily.
Mark.

The whole
Bench De-
clared that
it is the same
Richard that
proved Alex-
ander's Title
to all Har-
berts-Town
at Athlone
in 55; by
Comparison
of Hands,
that Edward
Plunkett
would now
have to be
Proprietor of
two parts of
Herberts-
Town.

A. How is it in Mr. Amory's Note Book very positive that *Richard Plunkett* was Proprietor in 41? The which *Richard Plunkett* positively swears in 55, that *Plunkett*, under whom *Wade* derives, was in 41, in Possession of all *Herberts Town*, and was then Reputed the true Inheritor and Proprietor, and the whole Bench Declared they believed it was the very same *Richard*, by Comparison of Hands; but Mr. Amory takes no Notice, but barely names the Deposition on Record.

B. Well, What was done upon all this?

A. The Trust was pleas'd not to give Judgment before the 25th of *March 1701*, and upon the Trustees returning to *Ireland*, the following State of *Wade's* Case was given to the Trustees, except Mr. *Trenchard*, who Refus'd it, and their Councils.

The State of *Wade's CASE* Deliver'd to the Trust.

Oliver Plunkett being seized in Fee, settles Harbert's-Town in the Year 30, on his Eldest Son Thomas for Life, with Ballinegon. &c. after the Death of the said Oliver and his Wife, and after Thomas his Death, to his Eldest Son Christopher and his Heirs Males, and for want of such Issue, to Alexander, subject to the said Oliver's last Will, &c.

Pedigrees.

The said Oliver has Issue, Thomas and Richard, Thomas the Eldest Son of the said Oliver has Issue, Christopher and Alexander.

This is the Rich. that Nangle would have Proprietor.

THE Settlement proved by two Inquisitions, the one in 33, the other in 41, both reciting the said Settlement at large, as also by *Alexander's Claim at Athlone in 55*, where the said *Richard*, and one *Edward Plunkett* proving the said Claim, swears that *Christopher* died without Issue, and that he, and then the said *Alexander* was possessed of all *Harbert's-Town*, by receiving the Rents thereof, and that *Christopher*, and after him the said *Christopher* were reputed the true Inheriters and Proprietors of *Harbert's Town*, upon which a Decree is granted, (*ut per Record.*)

Mem. This Rich. is second Son to Oliver, who Nangle would have Proprietor.

This Edw. is younger Brother to Alex.

Read Alexander.

Alexander in 62 Claims but a Third of Harbert's-Town by mistake, or that he might pass his Adjudication the easier (as several did before the Decrees quoto ad hoc) but his Proof was to the whole (being the said Settlement) and was Decreed so, as well as he, and Christopher Decreed Innocents at large, though the whole not in his De-

Pag. in the Act of Settlement 629.

Decree, by reason of the Mistake in his Claim which is proved.

First, By the Roll of Innocents, which returns all Harbert's-Town Alexanders, *ut per Record.*

Records and
Proofs of A-
lexander,
Decreed to
all Harberts-
Town.

Secondly, The Commissioners for settling the Quit-Rents (as Mr. Petty, &c.) returns all Harbert's-Town Alexanders, and Wade constantly paid the whole Quit-Rent of all Harbert's-Town, *ut per Record.*

Thirdly, George Barnewall, one of Edward Plunkett's Evidence, in the Cause in 64, betwixt him, Wade and Alexander, swears then, that he was present, and see Alexander Decreed to all Harbert's-Town, and accordingly possessed before Alexander sold to Wade, (*ut per Record.*)

Fourthly, Sir Henry Ingoldsby seeing the above Proof, and being then the present Possessor in 63, as his Debenture gives up the Possession of all Harbert's-Town to Alexander, and is forced to pay the Arrears of Quit-Rent of Harbert's-Town during the time he enjoyed it, by Order of the Exchequer, upon the then Attorney General's Plea and Confession of Alexander's Title to all Harbert's-Town, (*ut per Record.*)

Edward's
pretended
Title.

Alexander soon after in 63 sells to Wade, Leaves a Fine, and suffers a Common Recovery with a Deed and a General Release; But Edward Son to the above Richard, prefers his Bill in 64, pretending to have purchased all Harbert's-Town from Alexander and Wade. and upon both Alexander's and Wade's Answer, and Wade proving his Conveyance, as aforesaid, from Alexander, with the said Edward's turning Tenant to Wade for the said Harbert's-Town, pursuant to Alexander's said Conveyance, Wade gets a Dismiss against Edward; But Alexander is Decreed to convey to Edward, which can be no more, but that Alexander shall make Edward Satisfaction, or lie in Goal till he does it, and that Decree without Costs, (*ut per Record.*)

Q. For what would Alexander's signifie? Wade being in possession by Ejectment, Edward could

not recover; And Chancery would not relieve him, otherwise would have ordered *Wade* to give up the Possession, instead of giving him a Dismiss against him the said *Edward*.

Wade then peaceably enjoys until this Act of Reassumption, which is 38 Years, but that in the Year 70, the Duke of York having passed Patent for 248 Acres in *Barber's Town*, and his Certificate is *Barber's Town*, pretending the said 248 Acres was the above *Richard Plunketts*, who was never Decreed Innocent, and that the said *Richard* exchanged *Ballinegon* with his Brother, the said *Thomas* for *Harbert's Town*, tho' *Ballinegon* as well as *Harbert's Town* was settled on *Thomas* as above; and in 75, the said Duke by Mr. *Bray* Ejects, and upon a fair Hearing, *Bray* was Nonsuited, and so *Wade* peaceably enjoys until 84. he said Duke by Mr. *Nangle* brings another Ejectment, and by Surprise Recovers; *Wade* not having four hours time to prepare for a Tryal (*ut per Wade's Father's Oath on Record*) but *Wade* immediately Eject, but is stopped; the Duke or King's Agent being in *England*, as pretended, so *Wade* could not get leave to go to Tryal, though he earnestly endeavoured it by Petition of Right, until 94, at which time, upon a long Tryal at Barr, *Wade* recovered (*ut per Record*) and peaceably enjoyed until this Act, and in *March* last found the above Proceedings at *Athlone*, and not before; with the said *Richard* and *Edward* Depositions in 55.

FIRST Quere, What reason is there to doubt the said *Richard* and *Edward's* Depositions in 55, backed with the said two Inquisitions, which only settles the Estate on the Eldest Son?

Secondly, How could *Richard* be possessed of *Harbert's Town*, but as Tenant to *Christopher* or *Alexander*, when *Richard* himself, as well as one *Edw. Plunkett* swears in 55, that *Christoph.* and then *Alexand.* were possessed of all *Harbert's Town*, by receiving the Rents, and *Christopher* and then *Alexander* were the Proprietors of *Harbert's*
B Town,

Town, and by *Alexander's* Claim in 55, the Rent of all *Harbert's-Town* was but 8*l. per. Ann.* called 200 odd Acres, before 41, so if the pretended Rent Charge be real (as it is not made appear) *Richard* being Tenant, might well grant the same *Harbert's-Town*, being set at so low a Rate, and the said Rent Charge being as Counter Security, and not for a real Debt; besides it is granted in 38 by *Richard Plunkett* of *Donagoran*, which if *Rich.* then Liv'd at *Harbert's-Town* as *Edward* swore before your Honours, and that *Harbert's-Town* was *Richard's*, it would have been by *Richard* of *Harbert's-Town*, and not of *Donagoran*, which plainly shews, that *Harbert's-Town* was not *Richards*, or that *Richard* did not live there in 38, either of which makes *Edward* forsworn.

Thirdly, Can it be presumed, if *Edward* thought his Father *Richard* had any Title to *Harbert's-Town*, would he offer to purchase from *Wade* or *Alexander*?

Fourthly, Can it be presumed, that it was for want of Money or Interest, the said Duke of York, or Madam *Villers*, or their Agents, suffered *Wade* to enjoy *Harbert's-Town* so long undisturbed, being about 30 Years (or that they were advised they had no Title to *Harbert's-Town*) when all, or most of the old People that knew any thing of the Proceedings of *Harbert's-Town* was alive, or that the late King *James* would not suffer *Wade* to go to Tryal in 87 or 88, when most Protestants lost their Estates, or that occasioned Sir *Henry Ingoldsby* to give up his Possession of all *Harbert's-Town* in 63?

Fifthly, Whether all the above Evidences appearing by Record, and backed with a long Possession, ought to be credited, or the Evidence of *Edward*, who swears directly contrary to the Records; his Fathers, and one *Edward Plunkett's* Depositions in 55, and to things Ten Years before he was born, backed only with the Surveys which generally returned the Tenant in Possession Proprietor, and the Down Survey returns all *Harbert's-*

bert's-Town, Richard Plunkett of Irish-Town, who as proved, is another Family, and not this Richard, who is now said to have two parts of Harbert's-Town, which shews the Survey Mistaken.

Sixthly, if Richard, Father to Edward was any way concerned, as Edward swears in the pretended Agreement, betwixt Alexander, Wade and Edward in 63, would not some one of all the Evidence, being 9 or 10 in that Cause, once so much as mention the name of the said Richard, which they do not?

Lastly, Is it not very hard, if that this Act should prejudice Wades Title to Harbert's-Town, when the Law with the greatest of Interest, as Sir Henry Ingoldsky, the Duke, or King, and Madam Villers, could not these 38 Years, but once in 84, and that by Surprize, being privy to the whole Title and Proof, now set up by Mr. Nangle.

But nothing being done Wade gave the Agent to the Trust notice, he would move to lay aside Plunkett's Evidence; whereupon Wade's Council moving, the Court ordered to give both Agent and Council notice, and move it again, which Wade did, and by the Consent of Councils and Agent for the Trust, and Mr. Nangle, the following Order was made, &c.

Chichester House, Dublin, September 26. 1701.

Present. Sir Cyrill Wich, Sir Henry Shere, Mr. Annesley, Mr. Baggs, Mr. Lanford, Mr. Trenchard, Mr. Isham, Mr. Fellowes.

Upon motion of Mr. Lewther of Council with John Wade Esq; setting forth that his Client is able to falsifie and invalidate the Evidence of Edward Plunkett, taken in Court upon hearing his Claim, and praying a day for that purpose.

Ordered that
VVade and
Nangle shall
appoint a
Day.

Ordered that the said Wade give notice of this Motion to Collonel Francis Nangle, and agree with him to appoint a day for the purpose aforesaid.

Per Cur. Will. Trenchard, Secretary.

Upon which, Wade serv'd Nangle with the Order, and writ the following Note under it.

Sir,

VVade's
Letter to
Nangle, un-
der the Or-
der.

I Desire you will fix on some convenient Day according to the above Order; which I will agree to; but withal, do let you know, I then intend to Invalid the Testimony of Alson Plunkett and Ellin Reily, as well as Edward Plunkett; the Court was of Opinion that Edward Plunkett should then be present, and I am sure the same Reason is for Alson Plunkett and Ellin Reily being then there, of which, I do not doubt, but you will take Care, it being for your own Advantage: I pray your Answer, to, Sir, your Humble Servant,

Octob. the 2d. 1701.

John Wade.

For Coll. Francis Nangle at Moymat, These.

B. Did not Nangle appoint a Day accordingly?

A. No; So VVade Swore the following Affidavit:

John Wade Esq; Claimant. Numb. 1795.

John Wade abovesaid, having by his Counsel set forth that he is able to Invalid the Testimonies of Edward Plunkett, taken and given on the Hearing of this Claim; whereupon the Court was pleas'd to Order Coll. Nangle and the said Wade should appoint a Day for that purpose, as by the said Order may appear: Now the said John Wade made Oath in Court, That on or about the 2d. of October last, he sent a Copy of the said Order, by his Servant, to the said Coll. Nangle, desiring the said Nangle to appoint a Day, according to the said Order, and that he the said Wade, would agree to the same; To which,

which, the said *Nangle* Answer'd by his Letter, ready to be produc'd, that he would Consult his Council as to the said Copy, and then give his Answer ; but the said *Nangle* neglecting so to do, as the said *Wade*, believed, sent a second Letter, desiring his Result, to which the said *Nangle* by his Letter Answer'd, that he had not been in *Dublin* since he heard from the said *Wade*, but soon intended, from whence the said *Wade* should hear from the said *Nangle* ; but the said *Wade* not Receiving any further Answer from the said *Nangle*, the said *Wade* writ again to the said *Nangle*, desiring him to appoint a Day according to the said Order ; but the said *Nangle* would not write any Answer, but sent this Deponent word he would meet him at the Coffee-House, or at *Colledge-Green*, but having afterwards press'd for an Answer, the said *Nangle* say'd he would give no other, but that he would meet this Deponent at the Coffee-House in *Skinner-Row* ; all which the said *Wade*'s Servant inform'd the said *Wade*) upon which, the said *Wade* went to the said Coffee-House, and met the said *Nangle*, who then told the said *Wade*, that his Council advis'd him, the said *Nangle*, not to appoint a Day according to the said Order ; but the said *Wade* pressing to have the same in Writing, in order to move thereon before the Honourable the Trustees, the said *Nangle* promis'd the said *Wade*, that he, the said *Nangle*, would get his Council to draw such an Answer, and that the said *Wade* should have it in Writing ; but the said *Wade* seeing the said *Nangle* did not perform the same, writ again, but receiving no Answer, the said *Wade* sent his servant to the said *Nangle*, desiring an Answer, according to *Nangle*'s Promise, who refus'd to give any Answer, but he would meet the said *Wade* at *Colledge-Green*, as the said *Wade*'s Servant inform'd the said *Wade* ; upon which, the said *Wade* went to *Colledge-Green*, and at *Chilster-House* met the said *Nangle* on *Saturday* the 10th of *November*, who then told the said *Wade*,

Wade's *As*
Advances on
 Nangle's
 Delays.

that his Council advis'd him not to write, nor appoint any day according to the said Order, and so would give no other Answer; but said that if *Edward Plunkett* had forsworn himself, the Trustees had no Power to Punish him, and that the said Wade's way was to Indict him at Common-Law, and then bring the Conviction to the Trustees Court; or Words to the same Effect.

John Wade.

Jur' in Cur' sexto die

Decembris 1701. Amory Register.

But Mr. Amory Reading it when Wade Swore it. Wade could not get it afterwards Read in Court, though earnestly Endeavour'd.

B. Wade being Sheriff of the County of Meath, was oblig'd to go to the County for three or four Days upon Publick Business; Mr. Nangle watch'd his Opportunity, and makes the following Motion by Mr. Asgal, without the least Notice to Wade or his Agent, upon which the following Order was made.

Note, Mr Amory has left out Signing of his Notes only writing on top of them they are such as one's Notes.

Mr. Wade's
 Notes.

Friday the 12th of December
 1701. At a Court then held at
 Chichester-House.

Present. Sir Cyrill Wich Knt. Franc. Annelly,
 John Baggs, John Trenchard, Hen. Langford,
 John Isham, James Hooper, Will. Fellows, and
 Tho' Rawlins, Esquires.

MR. Nutly, the Claimant has mov'd for a Re-hearing, Prays that Claimant may be oblig'd to pay Cost of the former Hearings before the Claim be heard.

Order for
 vvade to De
 posit the Rents
 and 10 l. for
 a Rehearing.

Cur' Upon Depositing the Rents of the Lands in question, and also Depositing 10 l. with the Master, by 25th Instant, this Claim to be Reheard, after all the Claims are Heard, as to the falsifying of

of the Testimony of *Edward Plunkett* ; and the Claimant to bring up the said *Oliver Plunkett*, and to be allowed his Charges.

A. This is Mr. *Nutley* and not Mr. *Asgill* that moves.

B. It is true, Mr. *Nutley*, though not in Court, his Name is made use of to Colour the Matter, for would it not look very odd that Wade, that is a Protestant, should be so often put to the Charges of moving again, when he gave but the Agent notice, and not both Council and Agent; and that Mr. *Nangle* a Papist, should upon an irregular Motion obtain such an extraordinary Rule?

A. Why do you call it Irregular and Extraordinary?

B. I will tell you, first it ought to be mov'd in the Chamber where the last Order was made, and Wade or his Agent ought to have notice: And it was never known in a Court of Justice, that such a positive Order by the Consent of all Parties was alter'd (as Order the 26th of September past) but the adverse Party either had notice or time to shew cause to the contrary, neither of which Wade had,

A. Was not *Oliver Plunkett* one of *Nangle's* Evidences, and why should Wade bring him up and allow him his Charges.

B. Because it was the Pleasure of the Court, it being Mr. *Nangle's* desire; for I'm sure there was no other reason, for Mr. *Nangle* could and did bring *Oliver Plunkett* up when he pleas'd, and Wade could not.

A. What difference betwixt the Chamber and the Court, are not they the same Judges?

B. Yes, but Mr. *Amory* takes Notes in Court, but does not now Sign them; and the Secretary in the Chamber, he Signs his notes; and

though tied up to the Invalidating of Edward Plunkett's Testimony, and Wade to bring up Oliver Plunkett, Nangle's Evidence, and Nangle left at large. Nutley's Name made use of instead of Asgill.

Order of the 26th of September was, that Wade and Nangle should appear in a Day. Vid. Page 13

Wade's *As*
Advances on
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John Isham, *James Hooper,* *Will. Fellows,* and
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MR. *Nutly,* the Claimant has mov'd for a Re-
 hearing, Prays that Claimant may be oblig'd
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A. Why do you call it Irregular and Extraordinary ?

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B. Because it was the Pleasure of the Court, it being Mr. *Nangle's* desire ; for I'm sure there was no other reason, for Mr. *Nangle* could and did bring *Oliver Plunkett* up when he pleas'd, and *Wade* could not.

A. What difference betwixt the Chamber and the Court, are not they the same Judges ?

B. Yes, but Mr. *Amory* takes Notes in Court, but does not now Sign them; and the Secretary in the Chamber, he Signs his notes; and

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Nangle
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Vid. Pag. 13

you know it is a great Matter in taking Notes, if they be not impartially taken.

A. Is it not hard that VVade shall pay for a Rehearing to be ty'd up, only to the Invalidating of Edward's Evidence. And Nangle (at whose desire it was ordered) should be left at large.

B. Truly, I think so.

A. VVell, what did Wade on this severe Rule.

Wade de-
sires no Re-
hearing.

B. He gave notice both to the Agent and Council, and moved to lay it aside, but it was in vain; the following notes and order were made.

Mr. J. Wade's
Notes.

Tuesday 23 Dec. 1701. At
a Court held at Chiche-
ster-House

Present. Sir Cyrill Wich, Fran. Anesly,
J. Baggs, Jo. Trenchard, Jo. Isham, Hen.
Langford, Esqrs. Sir Hen. Shere Knt. Will.
Fellows, Tho. Rawlins, Esqrs.

MR. Recorder moves on last Orders to lay it aside, for that Claimant does not desire a rehearing, but only Liberty to falsify an Evidence given by one Plunkett, That the Claimant did give Notice of this Motion formerly, and was put off by Mr. Nangle; but as soon as Claimant was gone out of Town, Nangle moves the Court for Costs.

Mr. Afsall pro Nangle, prays the Claimant may give Security to answer the real Value. and pay the Ten pounds for Costs.

Cur' give Security to be accountable for the full Profits, in case the Claim should be disallow'd, and to pay the ten Pounds; This Claim to be reheard after all the Claims are heard, and Oliver Plunkett to be Summon'd by the Trust.

A.

A. Why then Wade could do nothing more till all the Claims were Heard, according to that Order.

B. It's true, but when Wade fee most of the Causes Heard, he desired Mr. Amory to put his Claim in the Paper of Causes to be heard, as was usually done; but enquiring of Mr. Amory what time his Claim would come on, and getting no Answer, whereby he perceiv'd that Mr. Amory had no mind his Claim should be heard, moved the Court that he had obey'd the last Order, and desired a Day might be appointed for Hearing his said Claim; upon which the following Notes and Order was made.

Mr. Wade's Notes. *Wednesday the 11th of March 1701.*

Present. Sir Cyrill Wich Knt. Jo. Baggs, Jo. Trenchard, Tho. Harrison, Esqrs. Sir Hen. Sheres Knt. Jo. Isham, Will. Fellows Tho. Rawlins, Esqrs.

MR. Luther moves to put this Claim in the Paper, having deposited the 10 l. according to the former Order.

The Master's Receipt for the Money. Dat. 7th March 1701.

The Notes on the 12th of Dec. 1701.

The Notes on the 23th of Dec. 1701.

Cur. to be reheard the 23th of this instant March, and the Claimant to give in a Note to night of what Points he will insist on, that has not been insisted on before, and what new Evidence he will examine, and to give in the Names of his Witnesses to night, and the 10 l. to be paid out to Coll. Nangle.

Order'd to be heard the 23 of March but Wade oblig'd to give the Names of his Witnesses, points and evidences that very night; Nangle not oblig'd.

A. I Pray what time of day was this Order made, that Wade was oblig'd to give in a Note that very night of what Points he will insist on, that has not been insisted on before; what new Evidences he will examine; and the Names of his Witnesses?

B. It was at rising of the Court betwixt 3 and 4 in the Afternoon, and Wade only desired time until next day, which was refused; however Wade made a hard shift, and gave it in that night, being assured it would not be received the next day: And then Wade debarred from producing any Evidences or Records against the said *Edward Plunkett*, or in Confirmation of the said *Wade's Title of Harbert's-Town*; yet *Nangle* not obliged to give in the Names of his Witnesses.

A. How came the 10 *l.* that was deposited to be given to *Mr. Nangle* before the Cause was Re-heard?

Mr. Amory gets Nangle the 10 l.

B. I cannot tell, but I know *M. Amory* moved it very often before it was order'd; and I believe you cannot instance where Money deposited was ever given out of Court before the Cause heard (except delay'd, which *Wade* never did.

A. I long to see an end of this Cause; I pray on the 23^{d.} of *March* last, what was done?

The 23. Wade desires his Claim may be heard.

B. Why, *Wade* seeing the Court call the Claims of such as was before and after him in the Paper of Causes, and heard them. *Wade's* Council desired that *Wade's* Claim might be heard according to the Order, which was refused; whereupon *Wade* was forced with his Witnesses and Officers with the Original Records to attend that day until about 7 at Night, and all the next day being the 24th of *March* last, from 7 in the Morning until 11 of the Clock at Night: at which time, *Wade's* Claim was called to be heard, but *Mr. Nangle* and his Friends having industriously spread abroad to the Trust and others, that *Wade* had so many Witnesses, that it would take a days time

time to hear them, the Court (except the Trustees) were in such a Hurry when Wade's Claim was called on, crying out, that they would be ruined, not having time to have their Causes or Clients heard, especially Mr. Nangle's Friends; so that no Body could be heard, insomuch, some of the Bench were for Post-poning Wade's Claim, and hearing it if they had time; and Wade's Counsel being either incapacitated by not reading his Brief, or being Drunk, so as some slept, others spew'd in Court, that Wade could not get his Brief so much as read.

A. I pray what was Wade's Brief, that Mr. Nangle and his Friend so industriously spread it abroad; there were so many Points and Evidences, that it would take a whole days time to hear them? For I am told by a Gentleman of very considerable Fortune, that some acquainted some of the Trustees in Court before there was a *Coram*, the 23 or 24 of *March* last in the Morning, that Wade had 25 Witnesses, and as many Points to examine too; to which some of the Bench answer'd, that if Wade waded through them all that day, he had the best Luck of all his Name. Since you have desired it, I will let you have a Copy of the Brief.

Wade's Brief.

The State of this Case being given in formerly only read it. And what the Counsel for Trust will not allow, to produce the Record; and to shew the uncertainties of the Surveys, produce the Surveys, for they returned Killrush, Fitz Gerald's, which Archbold proved before the Trust to be his, if not allowed.

That Sir James Ware recovered more at Law than he Claimed,

Produce Wade's Affidavit

Then prove Edward Plunkett Forsworn, Sec. For,

First, Edward Plunkett swears, that his Grandfather Oliver settled all his Estate on his Eldest Son Thomas, except Ballinagon, which he gave his Son Richard.

*Visit. his Claim,
and call Mr.
Dixon.*

This

To prove this
call Nic. Gil-
finan and
Con. Guerty,
and produce
the said Re-
cords.

Nic. Gellinan
swore that
Edward was
not above 2 or
3 year old in
41.

And Marg.
eldest Sister to
Edw. by 7
children mar-
ried at 9
years old in
41.

To prove this,
call Nic. Gil-
finan and
Con. Guerty.

The said Gil-
finan swore,
that Richard
lived in Do-
nagoran and
not Harbert's-
Town in 41.

Kide Green's
Depositions
with the rest
of the Eviden-
ces on Record,
and call De-
nis Delainy
who was by &
saw Edward
attorne Te-
nant to Wade
as aforesaid.

Call Nic. Gil-
finan and
Con. Guerty

Doat Richard
was but 35 in
20, agrees
with what
Gillfinan

swore.

This proved false by the Inquisition in (33)
and 41, and also by the Oath of the said Rich.
and one Edward Plunkett, proving Alexander's
Claim in 55 at Athlone, by which all Harbert's-
Town and Ballinagon is settled on him, which was
8 or 10 Years before Edward was born.

Secondly, Edward swears, that five Years be-
fore 41, Richard exchanged Byllinagon with his
Brother Thomas for Harbert's-Town, and from
that time Richard lived in Harbert's-Town until
after 41.

The pretended Rent-Charge made by Richard
of Donagoran shews, that Richard in 38 lived in
Donagoran, and it can be proved by living Wit-
nesses, that before and after (41) Richard
lived in Donagoran.

Thirdly, Edward swears, That from the time
Alexander was Decreed Innocent, he, the said
Edward, continued in Possession of Harbert's-
Town until Wade by Surprize turned him out.

This is to be proved false by the Depositions of
five Witnesses in Chancery in 65, upon which,
Wade got a Dismiss against the said Edward, in
the then Cause betwixt him, Wade and Alexan-
der; where it is proved, that the said Edward
did not only Attorne Tenant to Wade for Harberts-
Town in 63. but made one Joseph Greer, Tenant,
to the said Edward, come out of his House in
Harbert's-Town, and delivered Wade Possession
thereof, and then the said Edward desired
to become Wade's Tenant for the said Har-
bert's-Town.

Fourthly, Edward swears several times in (76)
in Chancery, That he is but 35 Years of Age, or
thereabout (as the said Wade verily believes he
can make appear) that he then swore true (as to
his Age) and that the first time he knew Crossekeele
and Christopher Plunkett (who was his Uncle) was
about 30 Years (which is from that time about
five Years after 41) and afterwards he swears he
knew Crossekeele before 41.

What

What *Edward* swore about his Father's Evidence formerly, according to *Tallbott's* Bill and *Wade's* Answer, is quite contrary to what *Edward* swore now; but *Wade* can prove, that *Richard* being very poor, when, Evidence for *Nangle*, he sent to *Wade*, and offered not to be concerned against him, if he would give him two Cows grazing, a House and Garden during Life.

To this call
Henry Brun-
ton, Alexan-
der Plunkett
and Denis
Delainy.

The Depositions of *Athlone* not found until of late.

Edward's Character, and what Discourse past between *Edward* or any of them relating to *Harbert's Town*.

To this call
Mr. C. Wade
of Ould Ca-
stle, M. Wil-
cox of Kil-
rush.

B. Is this all the Brief I pray, what Fees did he give his Council that he could not get so short a Brief read?

A. He gave three of 'em four *Lewis d' Ors* a-piece, one two Guineas, and another two *Lewis d' Ors*.

That Gilfinan
swore as a-
foresaid, ap-
pears by the
Notes of the
Court, tho;
Mr. Amory
will not give
a Copy of
them as well
as pag. 29.

B. Why truly, one would think they were either drunk or worse.

A. How came *Wade's* Council so drunk?

B. I do not say it was done designedly (because several of the rest of the Council were so) but it looks like some such thing; for on the 23^d, when *Wade's* Claim was to be heard, there were, about an hundred Claims posited for that Day; most of which were heard but few days before; and Mr. *Amory* assur'd Mr. *Nangle*, he need not attend, but at the rising of the Court, *ut per. C.W. Affidavit*, pag. 29. and though most of them din'd at the Tavern with Sir *Joseph Tate* about 4 a Clock, who had his Claim allow'd that day, for the Court sat until after Three, yet they must go and drink a Glass afterwards in the Room belonging to the Trustees Council; where their VVork was done.

A. Why should Mr. *Amory* be thus concerned to put off *Wade's* Tryal?

B. Mr. *Amory* as well as Mr. *Nangle*, knew very well if *Wade* was heard, the Cause would not go

go against *Wade*, but being put off to the last it could not possibly be heard, the Court would be in such a Hurry, being tired, and others pressing to have their Claims heard.

A. Why did not *Wade*, seeing his Council thus overtaken, manage his own Cause?

B. He endeavour'd it, by letting the Bench know he had given in a State of his Case to them and their Councils, which was all matter of Record; and if their Councils would pretend any Record is quoted wrong, he had them already to produce; but none being pretended, *Wade* proceeded to shew what a Rogue *Edward Plunkett*, *Nangle's* Evidence was, and then produced one *Nicholas Gylfinan*, who swore directly contrary to what *Plunkett Nangle's* Evidence swore, *ut per* their own Notes taken in then Court, and the Depositions of *C.W.* upon which, *Wade* was told by *Mr. Trenchard*, that if he would sit down, should be heard by his Council; to which *Wade* answer'd, That he would not say any thing, or call any Witnesses but what was in his Brief, and if his Council was incapacitated by not reading his Brief, or otherwise, it was hard he should be hinder'd to speak, when it was the last push he was to have for his Estate; and earnestly pressed that some of the Bench would see his Brief, which was but short, and if they thought it frivolous, *Wade* would acquiesce; otherwise, if they would permit him to go on with his Witnesses, and Records in Opposition to what *Edward Plunkett* had sworn, if *Wade* did not prove *Edward Plunkett* a perjur'd Rogue and Villain, he would not only quit his Pretension to *Harbert's-Town*, but also give it under his Hand to pay 500 *l.* Costs.

Wade's
Brief, pag.
25.

Charles Wade of *Ould Castle* in the Connty of *Meath*, Gent. came this day before me, and made Oath, that he was present in *Chichester House Dublin*, at a supposed Tryal, which *John Wade* of *Clonabreny* in the County of *Meath* Esq. had

had with *Francis Nangle* for 248 Acres in *Harbert's-Town*, in the said County of *Meath*, which Tryal came on before the Honourable Trustees near 11 a Clock at Night, on the 24th of *March* last past, when, and where, one *Nicholas Gylfinan*, was produced as an Evidence on the part of the said *Wade*, who then swore he was about 71 Years of Age, that in 41 he, the said *Gylfinan* lived in *Donagoran*, and that then one *Richard Plunkett*, Son to *Oliver Plunkett* of *Cloonebreny*, lived also in *Donagoran*, and not at *Harbert's-Town*; but that the said *Richard* did purchase a Lease of *Harbert's-Town* from one *James Barnwell*, and sent Cattle there about two or three Years before the Wars of 41, and that the said *Richard* had in 41 a Son called *Edward*, now known by the name of *Edward Plunkett* of *Searagh-Town*, who was but about 2 or 3 Years of Age in 41, that he knew *Richard Plunkett* of *Crosakeile*, and that he Married, or was Contracted in 41 to *Margaret Plunkett*, Daughter to the said *Richard* of *Donagoran*, when she was but about 9 Years of Age, and that they went to School 4 or 5 Years before bedded, and the said *Gylfinan* then swore, that *Christopher Plunkett*, Grandson to *Oliver Plunkett* of *Cloonebreny* was Proprietor of *Harbert's-Town* in 41, and that he never knew any other Claimant, but that *Harbert's-Town* belonged to *Plunkett* of *Cloonebreny*, the said *Charles* further saith, that he at the said Tryal heard the said *John Wade* acquaint the Honourable the Trustees, that he formerly had given in a State of his Case, which was wholly matter of Record, to their Honours and their Council, and if any of their Councils would pretend any Record misquoted, he, the said *Wade* had

That *Richard* in 41 lived in *Donagoran*, & not at *Harbert's-Town*, but sent Cattle there, having purchased *Barnwell's* Lease, all which is contrary to what *Ed. Plunkett* swears.

Mr. Amory would not give out any of these last Notes.

That *Edward* was but 2 or 3 years old in 41, which agrees to what *Edward* himself swore several times in 76, tho' now he swears to things 9 years before 41.

That *Plunkett* under whom *Wade* derives was Proprietor and Possessor of all *Harbert's-Town* in 41, which agrees with the Records of *Athlone* and the 2 inquiries, tho' *Ed. Plunkett* swears to the contrary.

V. K. P. 21

Wade's offer
to the Trustees
when the
Court in such
a hurry he
could not be
heard.

had them all to produce, and that in case their Honours would permit him, the said Wade to examine his Witnesses, and to produce his Records in opposition to what *Edward Plunkett* swore, who was then in Court, if the said Wade did not prove him a perjur'd Rogue and Villain, he would not only quit his, the said Wade's Pretensions to *Harbet's-Town*, but also give it under his Hand, to pay 500 l. Costs, and further he saith not.

Cha. Wade

Jurat Coram me 16 die Aprilis, 1702.

Humph. Jarvis.

A. Why should *Gilfinan* be believed before *Plunkett*?

B. Because what *Gilfinan* swears is back'd by several Records, as also with *Edward Plunkett*'s own Depositions in 76.

A. Had not Wade several other Witnesses?

B. Yes, if he had been permitted to have examined them, and *Nangle* knew it very well, otherwise he would not have endeavoured to prevent Wade of being heard.

A. What was done upon *Wade*'s fair Offer?

B. The Trust would not hear him, the Court being in such a Ferment, but dismissed his Claim.

A. Why, *Gilfinan* his Evidence is positive for *Wade*.

B. If it had not been, I presum'd he had not been hinder'd; for I suppose, that the Honourable the Trustees too much depended on the Honour and Fairness of Mr. *Amory*, or took it by hear-say from Mr. *Nangle* or his Friends, for that some of the Trust did say, that

that *Wade* recover'd. by a packt Jury; Surely that was consider'd as little as the Merit of *Wade's* Cause, to reflect on a Jury of the best Quality and Fortune in the County of *Meath*, where they live; besides, if *Mr. Nangle* thought so, could he not have brought another Ejectment since 94, but if *Nangle* would not abide a T yal in King *James* his time, when the Severites the Protestants then under-went in *Ireland* were too well known, no wonder not in King *Williams*; and in behalf of *Mr. Wade* (if any Reason) or any thing is misrepresented, I desire any one that think so, to particularize it, with their Names, and I'll engage it shall be answer'd with sufficient Proof.

A. Surely if they had not been resolv'd before, and so consequently would only pretend to hear *Wade*; because they would make him pay for a Re-hearing, and he desir'd none, as appears by their own Notes, pag. 22 for how could it possibly be, that Judgment should be so suddenly given in so tedious a Cause heard 13 or 14 Months before, and no new Evidence offer'd, but what is against *Edward Plunkett* and *Nangle's* Title? For if *Wade* had so many Vvitnesses and Points to examine too, that would have taken up almost a day to hear them, how could the Trust (as *Mr. Nangle* most industriously inform'd them) expect to hear *Wade* in about an hours time and give Judgment, the Claim being call'd on about 11 a Clock at night?

Wade is to d
that *Nangle*
said he would
expose the
Trust, if they
did not decree
Harb. for
him (if he
meant to pub-
lish his Col-
it is earn. d
fired) that the
Right may
appear.

B. Truly, I will not say the Trust were determined beforehand, but I believe all Mankind that hears this, will.

A. Vvhat became of *Mr. Nangle's* Claim?

B. Mr. *Amory* mov'd for *Nangle*, and his was immediately allow'd ; tho barr'd by Act of Parliament.

A. What reason was given for dismissing of *Wade's* Claim?

B. None ; nor I believe one cannot be given, except *Nangle's* Recovery by Surprize in 84.

B. But how came *Alexander* to claim but one third of *Harbert's-Town*, if he had a Right to all *Harbert's-Town* ?

The Court of Claims at Dublin in 62, was only to enquire whether Innocent or Not.

The Court at Athlone in 55, what Estates they had.

Rich. and Ed. both in 55, at Athlone swears the Possession of all *Harbert's-Town* to be in *Plunkett* in 41 under whom *Wade* derives.

B. In 62, several as well as he claimed less Estates than they had ; that they might not be opposed, for in that Court, it was not what Estate one had, but whether they were Nocent or Innocent, and it is a settled Opinion with all the Judges and Councils of *Ireland*, that if one claims but an Acre (if decree'd Innocent at large as *Plunkett* was, under whom *Wade* derives, he is Intituled to all his Estate, and (his Claim cannot prejudice him, and *Alexander's* Proof and Possession was the whole) but at *Athlone* Court in 55, where every one that claimed his Estate, was obliged to prove his Title ; there *Alexander* claimed all *Harbert's-Town* and *Ballinagon* by his Grandfather *Oliver Plunkett's* Settlement, and to prove his Possession and Title in 41, produces one *Edward Plunkett*, and this very *Richard*, who now is pretended to be Proprietor of two Parts of *Harbert's-Town*, who positively swears (as well as *Edward*, the Possession, Right, and Title of all *Harbert's-Town* and *Ballinagon*, to be in *Alexander Plunkett*, under whom *Wade* derives, ut per Record.

A. How long since *Wade* found these Records of 55 at *Athlone* ?

B. Since the first hearing before the Honourable the Truslees, for *Wade* had not discover'd them when

when he recover'd from Madam Villers and Nangle.

A. Is not Wade's Title much stronger by these Records of 55 at Athlone?

B. Truly one would think so.

A. Would the Trust without any manner of Deeds or Writings, or any Evidence of such, presume an Estate in one who swears the Possession, Right, and Title in another, * back'd with several Records?

* In Plunket, under whom Wade derives.

B. It is what they please, for they know they are absolute.

A. But pray how are the Surveys?

B. Truly, I will tell you; the gross Survey returns Harbert's-Town claimed by Richard Plunkett of Cloonebreny; the civil and down Survey returns Richard Plunkett of Irish-Town Proprietor, which is another Family, asproved.

Claimed.

A. But why was not Alexander returned Proprietor of Harbert's-Town?

B. When the Surveys was made, most of the Country was Wast, and Alexander being out of the Country, those concerned in the Survey, usually asked who lived on such Land, or whose Stock that was, and so returned them Proprietors; as it appears that Rich. Plunkett was Tenant to the said Harbert's-Town, and had Stock there, by the Oath of Nich. Gilfinan and Ellin Reily, one of Nangle's Evidences; and that the Propriety was not in Richard, appears by two Inquisitions, the Oath of Edward and Richard in 55. Vid. the State of the Case, pag. 13. And the very Trustees gave their Decree against the Survey in the like Case of Archbalds of Timoline and Fitzgerald, the Names of the Land is Killrush.

Rich. Plunket Tenant to Harbert's-Town in 41, both by his own Oath, and Ed. Plunket's in 55, as also Nic. Gilfinan. swore it, vid. pag. 29.

The Trust decreed against the Surveys.

A. Do not some of the Surveys return two parts of Harbert's-Town to belong to Richard, and the third to Alexander?

B. No, not any of them; nor any other Proof offer'd that two parts of *Harbert's-Town* was *Richards*.

A. I, But in the Book of Distribution, it is one third *Alexanders*, two thirds the Duke of *York*.

B. In the Margin of the Book it is so (but by the said Book all is given to Sir *Hen. Ingoldsby*, as a part of his Debenture) and that Addition or Alteration in the Margin, was made by some Clerk without any order; but at the Instance of Mr. *Bray*, or some other Fisher after broken Titles, in behalf of the Duke after he had passed his Patent, and therefore no manner of Evidence, for if it was not so, the D. of *York* could not be nam'd, he not having pass'd his Patent until 70, and that Book made several Years before.

A. Did *Nangle* offer any new Matter since *March 1700*?

B. No, not in the least,

A. Why did not the Trust give Judgment then against *Wade*?

B. Truly I believe they had no such thoughts, nor would not have had; but for Mr. *Amory*, and then the Reason is plain; for *Amory* knew *Wade* would apply to the Parliament for Relief, and then Mr. *Amory* might be question'd; but to prevent that, *Wade* must be kept in suspense until the very last hour; and that a Vote pass'd, that no more Petitions be received, so *Wade* being idle, for he could not complain, and Mr. *Amory* in no manner of Hazard.

A. Now *Wade's* Claim is dismiss'd, and was forced to pay for a Re-hearing, but had none; What Order of Possession did they give *Nangle*?

B. Mr. *Trenhard*, their Secretary writ to *Wade* the following Letter.

March the 30th 1702.

Sir,

THE Claim of Francis Nangle Esq; being heard and allow'd to a Lease of 248 Acres in Harbert's-Town in the County of Meath.

The Trustees commanded me to write you a Letter in your private Capacity, and to let you know that they expect you to deliver to the said Coll. Nangle such Possession of the said Acres, as he had under the Duke of York, on the 13th of Febr. 1688. I am,

To J. W. Esq;
at Clonebre-
wy in the
County of
Meath.

Sir, Your humble Servant
Will. Trenchard, Secret.

But at the same time an Order was Signed to the Coroner to give Nangle such Possession as he had the 13th. of February 88. which he executed as the said Coroner wrote to Wade.

A. Is not this pretended to be part of the private Estate, and is there any more vested in the Trust, than what King James had at the Accession to his Crown, if Nangle's Title was good?

B. I suppose not, For the Words in the Act are. pag. 5. & 6. in Octavo. (or whereof the late King James was seized or interested in, at his Accession to the Crown.

A. I pray what difference betwixt the Possession Nangle had at the Accession to the Crown, and what he had the 13th. of Feb 88.

B. When Nangle recover'd by Surprise from Wade, in 84. Nangle procured a Special Warrant on the Back of the Habeas facias, &c. by Virtue of which, he took Possession of 248 Acres in Harbert's-Town (which contains 372) by Mears and Bounds, in which he included all the Arable and Meadow Land in the Town, and left Wade only very Bad Mountain (for

Order of Possession, such as he had the 13th. of Feb. 88. (though the Act) or whereof the late K. James was seized or interested in at the Accession to the Crown.

his

That the Sheriff certifies he gave no Power to give Possession by means and Bounds.

Until 90.

Mr. Amory makes them in his Notes good Evidences

Alexander Plunkett's Examination.

his third part) not worth the Quit-Rent, but the Sheriff certifying he gave no such power, as to give Possession by Mears and Bounds, not being Authorized by the Writ so to do; Wade and Nangle was quieted in Common until further Order; Wade having brought his Ejectment for the said 248 Acres, and thought to have it try'd the very next Assizes, but by Mr. Nangle's Interest was stopped; and before the following Assizes, King James came to the Crown: so Wade not being permitted to prosecute his Ejectment, brought his Petition of Right; but Nangle procured Sir Edward Tyrrel, another Sheriff, to give him such Possession by Mears and Bounds, as he took at first; so Nangle enjoy'd the whole Town, Wade not being permitted to Shew the King, and that part left Wade, was not worth the Quit-Rent.

A. The Trust does not expect the whole Town?

B. I cannot tell, for 'tis but *sic volo sic jubeo*.

A. How came Wade to get the Deposition of Ellin Reiley, Was she not Nangle's Evidence?

B. Yes, and all the Evidence that was produc'd against Wade by Nangle, except one Alson Plunket, Sister to the said Edw. Plunket, Nangle's other Evidence, who, Wade knowing, contradicted themselves several times, in their first Examination before the Trust, that he believ'd they would do the same, when cross-examin'd, and a Re hearing being order'd, Wade had them both Summon'd, to shew what sort of Evidences they were, that Mr. Amory had made so very good in his Note-book; upon which Wade took out Summons, and had them serv'd, and the said Ellin Reiley appear'd; but Alson Plunket would not, upon which the following Deposition was made.

The Examination of Alexander Plunkett of Crossekeele in the County of Meath, Gent. aged 46 Years, or thereabouts. Taken before me the 5th of April 1702.

WHO being duly sworn upon the holy Evangelist, and examin'd upon his Oath, saith, That on or about the 17th day of March last past,

he,

he, this Examinant did repair to the Dwelling-House of Alson Plunket, alias Nugent, Widow, at Brownstown; and then and there, did personally serve the said Alson with a Summons, directed to her from the Honourable the Trustees, desiring her to appear before the said Trustees, at Chichester-house, on Monday the 23d of March, aforesaid, to give and declare her Evidence in behalf of John Wade Esq; Claimant, by delivering her the said Summons, together with 1 s. Sterling; withal telling her, that he this Examinant would furnish her the said Alson with a Horse, and all other things Necessary for her going and answering the said Summons; And that the said Alson, then reply'd, and said, That he this Examinant was very Impudent for serving her with the said Summons; and that if all the People in the Country came for her, she would not go (except her Brother Edward Plunket, or Coll. Francis Nangle did come for her. This Examinant further saith, That on or about the 19th of March, aforesaid, he this Examinant did go the second time to the said Alson's House, and offer'd her a Horse with all Necessaries fit for her going, aforesaid, which he this Examinant had then and there, ready for her in order to carry her, in order to fulfil the Contents of the said Summons; but she the said Alson did utterly refuse to go or answer the said Summons; and further saith not.

*Affidavit of
Alson Plun-
ket, being
Summoned.*

Jur' coram me die
& Anno superdict.
Jo. Woodward.

Alex. Plunket

And VVade not being permitted to examine all his Witnesses, got *Ellin Reiley* and others Examinations taken by a Justice of the Peace, in order to Indict *Plunket* in the King's-bench for Perjury, and so got Mr. Justice Coote, after he had taken Examinations to grant his Warrant for him, but as yet could not get him taken.

A. VVhy did *Nangle* know *VVade* intended to examin his *VVitneffes*?

*Wade obliged
to give in the
Names of his
Witnesses, in
which he
Names 2 that
were Nangle's.*

B. Yes, for you may see the Order of the 11th of *March*, p. 23, *VVade* was oblig'd that night to give in the Names of his *VVitneffes*, and these two old *VVomen* being nam'd, they did not forward *VVade*'s Hearing; For Mr. Amory knew what he had done as to their Evidences; as also when Mr. Amory sent *VVade* a Copy of his Claim after it was heard, for which *VVade* paid 12s. 7 d. *VVade* offer'd 10 s. and the Copy back, which I believe Mr. Amory did not take well.

*Wade pays
12s. 7d. for
the Copy of
his Claim af-
ter heard.*

A. If *VVade* had no business with the Copy, why did he pay for it?

B. Because he knew it would be worse if he had not.

A. I believe this Claim has been very expensive to *VVade*.

*Charges of this
claim above
200 l.*

B. I was present in Court when *VVade* affirmed before the Bench, that it had cost him 150 Guineas; and I am sure the supposed Tryal on the 24th of *March*, at 11 at night, cost him above 40 Guineas, including the 10 he paid for a Re-hearing, but had none.

A. VVell, what do you think, is not this very hard?

B. 'Tis so plain, I believe, even Mr. Amory or Mr. *VVWhite* will not say otherwise.

A. Pray what Relief would *VVade* have?

B. He would only desire to have his Claim heard before the *Honourable House of Commons*, or before the Judges of *England* or *Ireland*, on the very Act of Reassumption; if he has not a good and undeniable Title to all *Harbert's Town*?

A. But if it goes against *VVade*, who will pay the Damages?

B. *VVade* will be contented to deposite any Sum, where and when order'd, or give undeniable Security for the same.

A. VVell, how came you acquainted with this Affair?

B. Truly I had every word of it from *VVade* himself, and therefore by his Permission, do subscribe.

JOHN VVADE.

F I N I S.

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